

Disposition of the Independent Review Panel

Complainant: David L. Johnson

Date: March 31, 2003

IRP Case: A2002.146

From: Eduardo I. Diaz, Ph.D.
Executive Director

The Independent Review Panel met on March 27, 2003 for the purpose of publicly reviewing the complaint made by David Johnson against the Miami-Dade Police Department and the department's response to that complaint. The following represents the findings of the Panel:

A. Allegations

Mr. Johnson alleges he was racially profiled during two unrelated traffic stops: on August 12, 2001, when he was stopped by a plainclothes officer driving an unmarked vehicle, and on December 30, 2001, when he was issued a citation for a faulty tag light.

B. Disposition of the Independent Review Panel

The Panel did not find evidence to substantiate that Mr. Johnson was racially profiled, according to the MDPD definition, during two unrelated traffic stops. MDPD defines a racial profiling stop as one based solely on race. Because Mr. Johnson was not cited, there is no evidence, other than Mr. Johnson's word, regarding the April 12, 2001 stop. Officer Denise Bernhard stated she stopped Mr. Johnson on December 30, 2001 because he was straddling the lanes of traffic and driving with a faulty tag light. The Panel found the allegation to be NOT SUSTAINED.

C. Observations to Promote Healthy Police/Citizen Interactions:

1. Although Mr. Johnson believed he was unjustly detained during two unrelated traffic stops, he chose to cooperate with the officers on the scene and file a complaint through established procedures later. His choices contributed to traffic stops that did not escalate into confrontations and to an official record of his allegation. The Panel commends Mr. Johnson for his choices.

2. There is merit to one-on-one interaction between law enforcement officers and citizens in situations where the citizens perceive wrongdoing, even though there may have been no official wrongdoing. Sergeant Beato-Dominguez' explanation of MDPD procedure relating to traffic stops, and the Department's Racial Profiling Policy, contributed to Mr. Johnson's satisfaction with the MDPD response to his complaint.
3. Citizens need to know that the MDPD defines a racial profiling stop as one based *solely* on race. If the officer issues a ticket or warning for a traffic violation, the officer cannot be held in violation of the MDPD racial profiling policy, because he has documented a traffic violation as cause for the stop.

The Independent Review Panel concluded the complaint on March 27, 2003.

INDEPENDENT REVIEW PANEL

STAFF RECOMMENDATION TO THE PANEL

March 27, 2003

Complaint: A2002.146

Complainant: David L. Johnson

Accused Party: Miami-Dade Police Department (MDPD), Officers Sheldon Mohammed and Denise Bernhard

Date Complaint Received: April 10, 2002

Materials Reviewed: Grievance Report Form, correspondence, departmental response, staff notes

Complaint: Mr. Johnson believes he was racially profiled during two unrelated traffic stops.

August 12, 2001 Mr. Johnson had just purchased a 1987 Grand Marquis. He had the temporary tag in the rear window. Around 8:30 PM, a Ford F250 dark green pickup truck, with dark tinted windows, followed Mr. Johnson into the Citgo Gas Station on NW 27th Avenue and 119th Street. Mr. Johnson realized the driver was a police officer when he saw the flashing light on the dashboard. The driver, a White Hispanic male in plainclothes, approached Mr. Johnson and said, "You know why I stopped you." Mr. Johnson told the officer he did not know why he had been stopped.

The officer told him it looked like his tag had been altered. Mr. Johnson provided the appropriate papers to show ownership and he was not cited. Mr. Johnson stated everything about his vehicle was legal and there was no cause for him to be detained by a non-uniformed officer driving an unmarked vehicle.

December 30, 2001 A female police officer stopped Mr. Johnson around 7:20 PM at NW 64th St. and 22nd Ave. Mr. Johnson was driving the 1987 Mercury Grand Marquis, which now had a permanent tag. The officer said he was weaving across the road, however she did not do a sobriety test. The officer gave him a ticket for failure to display his tag properly; the little tag light was out. Mr. Johnson stated that, in May 2002, the judge dismissed the case, saying she wasn't going to waste the court's time. (The record shows the disposition as "dismissed complied.")

Departmental Response – PC 2002-0235: During the unrecorded "pre-interview," complaint investigator Sergeant Gina Beato-Dominguez said she addressed Mr. Johnson's concerns regarding each traffic stop, and explained the Department's policy against racial profiling. During his formal statement, Mr. Johnson advised that he was satisfied with Sgt. Beato-Dominguez' explanation of departmental policies and procedures concerning traffic stops.

Mr. Johnson stated he understood that the officer who stopped him during the first traffic stop on August 12, 2001, did not violate State law or departmental procedure regarding racial profiling. Mr. Johnson advised he no longer had any concerns or questions regarding this incident.

Sgt. Beato-Dominguez investigated the allegation that on December 30, 2001, Officers Denise Bernhard and Sheldon Mohammed detained Mr. Johnson without justification for 1 to 1 ½ hours during a traffic stop.

The following is quoted from the MDPD Disposition Memorandum:

The officers stated that upon observing the complainant straddling the lanes of traffic and driving with a faulty tag light, they conducted the traffic stop. Officer stated that when she made contact with the complainant, she did not observe any signs of intoxication; therefore, she did not take any further action regarding driving under the influence enforcement. Furthermore, Mr. Johnson stated that the officers kept him on the scene for an extended period of time without justification. According to the officers' Daily Activity Report and the Communications Assisted Dispatch (CAD), the officers stopped and remained with Mr. Johnson for 19 minutes, and subsequently stopped another vehicle within 11 minutes after going in service from Mr. Johnson's traffic stop. Based on the above captioned information, it is clear that Officers Mohammed and Bernhard conducted a lawful traffic stop and did not cause Mr. Johnson any undue delay; therefore, the allegation is NOT SUSTAINED.

Staff Remarks: Staff person Carol Boersma spoke to Mr. Johnson on March 10, 2003. He confirmed he was satisfied with the MDPD response to his complaint.

Staff Findings Regarding the Allegation

Staff did not find evidence to substantiate that Mr. Johnson was racially profiled, according to the MDPD definition, during two unrelated traffic stops. MDPD defines a racial profiling stop as one based solely on race. There is no evidence, other than Mr. Johnson's word, regarding the April 12, 2001 stop. Officer Bernhard stated she stopped Mr. Johnson on December 30, 2001 because he was straddling the lanes of traffic and driving with a faulty tag light. Staff recommends the finding be NOT SUSTAINED.

Observations to Promote Healthy Police/Citizen Interactions:

1. Although Mr. Johnson believed he was unjustly detained during two unrelated traffic stops, he chose to cooperate with the officers on the scene and file a complaint through established procedures later. His choices contributed to traffic stops that did not escalate into confrontations and to an official record of his allegations. The Panel commends Mr. Johnson for his choices.
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official wrongdoing. Sergeant Beato-Dominguez' explanation of MDPD procedure relating to traffic stops, and the Department's Racial Profiling Policy, contributed to Mr. Johnson's satisfaction with the MDPD response to his complaint.

3. Citizens need to know that the MDPD defines a racial profiling stop as one based *solely* on race. If the officer issues a ticket or warning for a traffic violation, the officer cannot be held in violation of the MDPD racial profiling policy, because he has documented a traffic violation as cause for the stop.

Staff Recommendations to the Panel

1. Adopt the staff findings regarding the allegation and the observations.
2. Conclude the complaint.